

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

THE BOEING COMPANY,  
Respondent,

and

SOCIETY OF PROFESSIONAL ENGINEERING EMPLOYEES  
IN AEROSPACE, IFPTE LOCAL 2001,

Charging Party

Case No. 19-CA-093656

Respondent's Answering Brief to Charging Party's  
Cross-Exceptions to the Administrative Law Judge's Decision

## **I. INTRODUCTION**

Pursuant to § 102.46 of the Rules and Regulations of the National Labor Relations Board, The Boeing Company ("Boeing") submits this Answering Brief to the Society of Professional Engineering Employees in Aerospace's ("SPEEA") Cross-Exceptions to Administrative Law Judge Dickie Montemayor's (the "ALJ") Decision in the above-styled case (the "Decision").

More than a year ago, the parties concluded an almost-year long negotiation process when SPEEA's members ratified two collective bargaining agreements with Boeing. Those agreements run through October 2016. Even though Boeing turned over more than 300,000 pages of information during the bargaining process, SPEEA filed unfair labor practice charges against Boeing. Specifically, SPEEA alleged that Boeing violated §§ 8(a)(1) and 8(a)(5) of the National Labor Relations Act by failing to provide certain information in response to two separate (and voluminous) information requests. The ALJ issued his Decision on the merits in July of this year, finding for SPEEA and ordering Boeing to respond to the now two-year old information requests. Boeing filed exceptions to the ALJ's Decision asserting that the ALJ's factual findings and conclusions of law are erroneous and that Boeing did not violate the Act.

Despite the ALJ finding in its favor, SPEEA filed cross-exceptions. Because SPEEA's exceptions concern trivial matters having no bearing on the substance of the ALJ's findings, SPEEA's cross-exceptions to the ALJ's Decision should be denied in their entirety.

## **II. ARGUMENT**

First and foremost, for the reasons set forth in Boeing's Exceptions to the Administrative Law Judge's Decision, which are incorporated herein, the ALJ's findings and conclusions that Boeing violated §§ 8(a)(1) and (5) of the Act are erroneous and should be overturned. As such, SPEEA's exceptions are moot and should be denied.

However, even if the ALJ Decision was correct, which Boeing denies, the Board's Casehandling Manual makes clear that filing exceptions or cross-exceptions to favorable ALJ decisions is disfavored. *See* NLRB Casehandling Manual § 10438.3. Yet, SPEEA filed four cross-exceptions that have no impact on the substance of the ALJ Decision. For example, SPEEA claims that the ALJ erred by omitting "paragraph 2b of the September 11, 2013 request for information from the list of requests found to be relevant at ALJD 9:2-4." However, the ALJ found paragraph 2(b) presumptively relevant on the previous page. (ALJD 8:40-43). Similarly, SPEEA's second, third, and fourth cross-exceptions assert that the ALJ should have expressly identified certain provisions of the parties' collective bargaining agreements and/or locations covered by those agreements in finding that SPEEA is the exclusive collective bargaining representative, a fact not in dispute. As these exceptions have no bearing on any substantive issue in this case, they should be denied.<sup>1</sup>

Finally, SPEEA's fifth and final cross-exception to the ALJ's Decision incorrectly contends that the ALJ should have ordered Boeing to post a notice at all locations covered by the collective bargaining agreements. Given that the Board has signaled a preference for electronic postings, *see J & R Flooring, Inc.*, 365 NLRB No. 9 (2010), the ALJ's recommended order, if upheld despite Boeing's exceptions, of requiring email distribution to the bargaining units is sufficient to effectuate the remedial goals of a notice posting. Accordingly, SPEEA's fifth cross-exception should also be denied.

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<sup>1</sup> SPEEA's fourth cross-exception must also be denied because it does not comply with NLRB Rules and Regulations Section 102.46(b)(1) requiring that "[e]ach exception ... (ii) shall identify that part of the administrative law judge's decision to which objection is made." SPEEA's fourth cross-exception contains no citation to the ALJ Decision pinpointing the alleged omission in Conclusion of Law 3(b).

### **III. CONCLUSION**

For all of the above reasons, SPEEA's cross-exceptions to the ALJ's Decision should be denied.

Respectfully submitted this 24th day of October, 2014.

s/ Richard B. Hankins

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## **CERTIFICATE OF SERVICE**

This is to certify that I have served a true and correct copy of the **RESPONDENT'S ANSWERING BRIEF TO CHARGING PARTY'S CROSS-EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S DECISION** was served via electronic mail upon the following individuals:

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This 24th day of October 2014.

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